

Introduced by

Senators Patten, Bekkedahl, Wardner

Representatives Kempenich, Lefor, Zubke

1 A BILL for an Act to create and enact a new subdivision to subsection 5 of section 6-09.4-03, a
2 new section to chapter 6-09.4, and a new section to chapter 24-01 of the North Dakota Century
3 Code, relating to public finance authority definitions, debt service repayments, and a corridors of
4 commerce program and fund; to amend and reenact sections 6-09.4-06 and 6-09.4-10 of the
5 North Dakota Century Code, relating to borrowing and lending authority and reserve funds; to
6 provide a bond issuance limitation; and to provide an appropriation.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1.** A new subdivision to subsection 5 of section 6-09.4-03 of the North Dakota
9 Century Code is created and enacted as follows:

10 The department of transportation for purposes of the corridors of commerce
11 program.

12 **SECTION 2. AMENDMENT.** Section 6-09.4-06 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **6-09.4-06. Lending and borrowing powers generally.**

15 1. The public finance authority may lend money to political subdivisions or other
16 contracting parties through the purchase or holding of municipal securities which, in
17 the opinion of the attorney general, are properly eligible for purchase or holding by the
18 public finance authority under this chapter or chapter 40-57 and for purposes of the
19 public finance authority's capital financing program the principal amount of any one
20 issue does not exceed five hundred thousand dollars. However, the public finance
21 authority may lend money to political subdivisions through the purchase of securities
22 issued by the political subdivisions through the capital financing program without
23 regard to the principal amount of the bonds issued, if the industrial commission
24 approves a resolution that authorizes the public finance authority to purchase the

1 securities. The capital financing program authorizing resolution must state that the
2 industrial commission has determined that private bond markets will not be responsive
3 to the needs of the issuing political subdivision concerning the securities or, if it
4 appears that the securities can be sold through private bond markets without the
5 involvement of the public finance authority, the authorizing resolution must state
6 reasons for the public finance authority's involvement in the bond issue. The public
7 finance authority may hold such municipal securities for any length of time it finds to
8 be necessary. The public finance authority, for the purposes authorized by this chapter
9 or chapter 40-57, may issue its bonds payable solely from the revenues available to
10 the public finance authority which are authorized or pledged for payment of public
11 finance authority obligations, and to otherwise assist political subdivisions or other
12 contracting parties as provided in this chapter or chapter 40-57.

13 2. The public finance authority may lend money to the Bank of North Dakota under terms
14 and conditions requiring the Bank to use the proceeds to make loans for agricultural
15 improvements that qualify for assistance under the revolving loan fund program
16 established by chapter 61-28.2.

17 3. The public finance authority may lend money to the department of transportation under
18 the terms and conditions requiring the department to use the proceeds for the
19 corridors of commerce program.

20 4. Bonds of the public finance authority issued under this chapter or chapter 40-57 are
21 not in any way a debt or liability of the state and do not constitute a loan of the credit of
22 the state or create any debt or debts, liability or liabilities, on behalf of the state, or
23 constitute a pledge of the faith and credit of the state, but all such bonds are payable
24 solely from revenues pledged or available for their payment as authorized in this
25 chapter. Each bond must contain on its face a statement to the effect that the public
26 finance authority is obligated to pay such principal or interest, and redemption
27 premium, if any, and that neither the faith and credit nor the taxing power of the state
28 is pledged to the payment of the principal of or the interest on such bonds. Specific
29 funds pledged to fulfill the public finance authority's obligations are obligations of the
30 public finance authority.

1 5. All expenses incurred in carrying out the purposes of this chapter or chapter 40-57 are
2 payable solely from revenues or funds provided or to be provided under this chapter or
3 chapter 40-57 and nothing in this chapter may be construed to authorize the public
4 finance authority to incur any indebtedness or liability on behalf of or payable by the
5 state.

6 **SECTION 3. AMENDMENT.** Section 6-09.4-10 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **6-09.4-10. Reserve fund.**

9 1. The public finance authority shall establish and maintain a reserve fund in which there
10 must be deposited all moneys appropriated by the state for the purpose of the fund, all
11 proceeds of bonds required to be deposited therein by terms of any contract between
12 the public finance authority and its bondholders or any resolution of the public finance
13 authority with respect to the proceeds of bonds, any other moneys or funds of the
14 public finance authority which it determines to deposit therein, any contractual right to
15 the receipt of moneys by the public finance authority for the purpose of the fund,
16 including a letter of credit or similar instrument, and any other moneys made available
17 to the public finance authority only for the purposes of the fund from any other source
18 or sources. Moneys in the reserve fund must be held and applied solely to the
19 payment of the interest on and the principal of bonds and sinking fund payments as
20 the same become due and payable and for the retirement of bonds, including payment
21 of any redemption premium required to be paid when any bonds are redeemed or
22 retired prior to maturity. Moneys in the reserve fund may not be withdrawn therefrom if
23 the withdrawal would reduce the amount in the reserve fund to an amount less than
24 the required debt service reserve, except for payment of interest then due and payable
25 on bonds and the principal of bonds then maturing and payable and sinking fund
26 payments and for the retirement of bonds in accordance with the terms of any contract
27 between the public finance authority and its bondholders and for the payments on
28 account of which interest or principal or sinking fund payments or retirement of bonds,
29 other moneys of the public finance authority are not then available in accordance with
30 the terms of the contract. The required debt service reserve must be an aggregate
31 amount equal to at least the largest amount of money required by the terms of all

1 contracts between the public finance authority and its bondholders to be raised in the
2 then current or any succeeding calendar year for the payment of interest on and
3 maturing principal of outstanding bonds, and sinking fund payments required by the
4 terms of any contracts to sinking funds established for the payment or redemption of
5 the bonds.

6 2. If the establishment of the reserve fund for an issue or the maintenance of an existing
7 reserve fund at a required level under this section would necessitate the investment of
8 all or any portion of a new reserve fund or all or any portion of an existing reserve fund
9 at a restricted yield, because to not restrict the yield may cause the bonds to be
10 taxable under the Internal Revenue Code, then at the discretion of the public finance
11 authority no reserve fund need be established prior to the issuance of bonds or the
12 reserve fund need not be funded to the levels required by other subsections of this
13 section or an existing reserve fund may be reduced.

14 3. No bonds may be issued by the public finance authority unless there is in the reserve
15 fund the required debt service reserve for all bonds then issued and outstanding and
16 the bonds to be issued. Nothing in this chapter prevents or precludes the public
17 finance authority from satisfying the foregoing requirement by depositing so much of
18 the proceeds of the bonds to be issued, upon their issuance, as is needed to achieve
19 the required debt service reserve. The public finance authority may at any time issue
20 its bonds or notes for the purpose of providing any amount necessary to increase the
21 amount in the reserve fund to the required debt service reserve, or to meet such
22 higher or additional reserve as may be fixed by the public finance authority with
23 respect to such fund.

24 4. In order to assure the maintenance of the required debt service reserve, there shall be
25 appropriated by the legislative assembly and paid to the public finance authority for
26 deposit in the reserve fund, such sum, if any, as shall be certified by the industrial
27 commission as necessary to restore the reserve fund to an amount equal to the
28 required debt service reserve. However, the commission may approve a resolution for
29 the issuance of bonds, as provided by section 6-09.4-06, which states in substance
30 that this subsection is not applicable to the required debt service reserve for bonds
31 issued under that resolution.

1 5. If the maturity of a series of bonds of the public finance authority is three years or less
2 from the date of issuance of the bonds, the public finance authority may determine that
3 no reserve fund need be established for that respective series of bonds. If such a
4 determination is made, holders of that respective series of bonds may have no interest
5 in or claim on existing reserve funds established for the security of the holders of
6 previously issued public finance authority bonds, and may have no interest in or claim
7 on reserve funds established for the holders of subsequent issues of bonds of the
8 public finance authority.

9 6. The industrial commission may determine ~~that~~ this section is inapplicable in whole or
10 in part for bonds issued ~~under sections~~ as follows:

11 a. Under section 6-09.4-06;

12 b. Under section 6-09.4-24; or under

13 c. Under the public finance authority's state revolving fund program.

14 **SECTION 4.** A new section to chapter 6-09.4 of the North Dakota Century Code is created
15 and enacted as follows:

16 **Debt service requirements - Corridors of commerce program - Legacy fund earnings.**

17 Each biennium, the public finance authority shall request from the legislative assembly an
18 appropriation from the general fund of moneys derived from the earnings of the legacy fund, as
19 defined under section 21-10-12, to meet the debt service requirements for evidences of
20 indebtedness issued by the authority for the corridors of commerce program.

21 **SECTION 5.** A new section to chapter 24-01 of the North Dakota Century Code is created
22 and enacted as follows:

23 **Corridors of commerce program - Corridors of commerce fund.**

24 1. The department shall administer a corridors of commerce program for constructing,
25 reconstructing, improving, and maintaining highways that improve freight
26 transportation and facilitate commerce.

27 2. The corridors of commerce fund is a special fund in the state treasury administered by
28 the department. Pursuant to legislative appropriations, the department shall use
29 moneys in the fund for eligible highway projects in accordance with provisions of this
30 section.

31 3. To be eligible for funding under this section:

- 1 a. Any construction work associated with the project must begin within three years
2 after the department selects the project for funding, unless the department grants
3 an exemption; and
- 4 b. The highway project must meet at least one of the following criteria:
- 5 (1) The project is a segment of highway with the following characteristics:
- 6 (a) The existing segment is not a divided highway;
- 7 (b) At least one end of the segment connects to an expressway or
8 freeway; and
- 9 (c) The segment will connect to a proposed or existing interchange;
- 10 (2) The project will ease the movement of freight traffic;
- 11 (3) The project will improve safety on the highway;
- 12 (4) The project will allow oversized or overweight vehicles to use the highway
13 after completion;
- 14 (5) The project will provide increased connectivity between areas of significant
15 commerce; or
- 16 (6) The highway is or will be designated as national high priority corridor of
17 connectivity.
- 18 4. A highway project is not eligible for funding under this section if the project is included
19 in the state transportation improvement program. However, after selection for funding
20 under this section, a highway project remains eligible for other state and federal
21 funding that may be available from the department.
- 22 5. When evaluating eligible projects for funding under this section, the department shall
23 score each eligible project, make the scores available to the public, and consider:
- 24 a. The return on investment;
- 25 b. Measurable improvements in commerce and economic competitiveness;
- 26 c. Efficiency in traffic flow based on average daily traffic counts, commercial vehicle
27 miles traveled, and travel times;
- 28 d. Safety improvements;
- 29 e. Connections to regional trade centers or other modes of transportation; and
- 30 f. Community support for the project.

1 6. The funding provided to an eligible highway project may be used to plan, construct,
2 replace, improve, or maintain the highway.

3 **SECTION 6. PUBLIC FINANCE AUTHORITY - BOND ISSUANCE LIMITATION.** Pursuant
4 to the bonding authority under section 6-09.4-06, the public finance authority may issue up to
5 \$100,000,000 of evidences of indebtedness, but not in an amount that would cause the
6 repayments to exceed \$16,000,000 per biennium, for the purpose of the corridors of commerce
7 program during the biennium beginning July 1, 2019, and ending June 30, 2021. The term of
8 any evidences of indebtedness issued under this section may not exceed thirty years.

9 **SECTION 7. APPROPRIATION.** There is appropriated out of any moneys in the corridors of
10 commerce fund in the state treasury, not otherwise appropriated, the sum of \$100,000,000, or
11 so much of the sum as may be necessary, to the department of transportation for eligible
12 highway projects under the corridors of commerce program, for the biennium beginning July 1,
13 2019, and ending June 30, 2021.